

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CURTIS GIBSON,

Plaintiff,

Civil No. 23-10013

v.

Honorable
Mag. Judge

**U.S. ARMY TANK AUTOMOTIVE
& ARMAMENTS COMMAND,
d.b.a. TACOM,**

Defendant.

Notice of Removal

Defendant, U.S. Army Tank Automotive & Armaments Command, d/b/a TACOM, petitioner herein, by its attorneys, pursuant to 28 U.S.C. §§ 1441, 1442(a)(1) and 1446, hereby removes this action (Case No. 22-004373-CZ), which is now pending in the Macomb County Circuit Court for the State of Michigan from said state court to the United States District Court for the Eastern District of Michigan, Southern Division.

Plaintiff seeks to sue petitioner U.S. Army Tank Automotive & Armaments Command, d/b/a TACOM, which is an agency of the United States of America, for negligence. This action is removable under 28 U.S.C. § 1441, and as such, plaintiff's claim is one against the "United States or any agency thereof or any

officer . . . of the United States or of any agency thereof, sued in an official or individual capacity for any act under color of such office . . .” 28 U.S.C.

§ 1442(a)(1).

The above-entitled action was filed against defendant in state court on or about November 16, 2022. Defendant has not been properly served. Copies of all process and pleadings in possession of petitioner are attached hereto.

Respectfully submitted,

Dawn N. Ison
United States Attorney

/s/ Jennifer L. Newby
JENNIFER L. NEWBY (P68891)
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-0295
Jennifer.Newby@usdoj.gov

Date: January 4, 2023

Certificate of Service

I hereby certify that on January 4, 2023, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system. I further certify that I have emailed and mailed by U.S. mail the foregoing paper to the following non-ECF participants:

Jerard M. Scanland, Esq.
Mussin & Scanland, PLLC
13351 Reeck Court
Suite 5
Southgate, MI 48195
JScanland@milawoffices.com

/s/ Jennifer L. Newby
JENNIFER L. NEWBY (P68891)
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-0295
Jennifer.Newby@usdoj.gov

Approved, SCAO

Original - Court
1st copy - Defendant2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN JUDICIAL DISTRICT 16th JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS	CASE NO. 22-004373-C2
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Court address
40 N Main St, Mount Clemens, MI 48043

Court telephone no.
(586) 469-7171

Plaintiff's name(s), address(es), and telephone no(s).
Curtis Gibson

Defendant's name(s), address(es), and telephone no(s).
U.S. Army Tank Automotive &
Armaments Command, d.b.a. Tacom

v

Plaintiff's attorney, bar no., address, and telephone no.

Jerard M. Sczekel p 74492
13351 Beech Ct, Suite 5
Southgate, MI 48195
734-282-6037

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (form MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

- ☐ There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- ☐ There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (form MC 21) listing those cases.
- ☐ It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

- ☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- ☐ MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
- ☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has

been previously filed in ☐ this court, ☐ _____ Court, where

it was given case number _____ and assigned to Judge _____.

The action ☐ remains ☐ is no longer pending.



Summons section completed by court clerk.

SUMMONS

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to file a written answer with the court and serve a copy on the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date NOV 16 2022 -	Expiration date* FEB 15 2023	Court clerk <i>Anthony Tolini</i>
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*This summons is invalid unless served on or before its expiration date. This document must be sealed by the clerk of the court.

MC 01 (9/19) SUMMONS

MCR 1.109(D), MCR 2.102(B), MCR 2.103, MCR 2.104, MCR 2.105

STATE OF MICHIGAN
IN THE 16th JUDICIAL CIRCUIT COURT FOR THE COUNTY OF MACOMB

CURTIS GIBSON,
Plaintiff,

-vs.-

004373
Case No.: 22- -CZ
Hon.

DIANE M. DRUZINSKI

**U.S. ARMY TANK AUTOMOTIVE &
ARMAMENTS COMMAND, d.b.a.
TACOM,**
Defendant.

MUSSIN & SCANLAND, PLLC
SCOTT P. MUSSIN (P66748)
By: JERARD M. SCANLAND (P74992)
Attorney for Plaintiff
13351 Reeck Court, Suite 5
Southgate, Michigan 48195
Phone: (734)-282-6037
Facsimile: (734)-447-5853
JScanland@milawoffices.com

RECEIVED

NOV 16 2022
ANTHONY G. FORLINI
Macomb County Clerk

COMPLAINT AND JURY DEMAND

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this complaint pending in this court, nor has any such action been previously filed and dismissed after having been assigned to a judge, nor do I know of any other civil action, not between these parties, arising out of the same occurrence as alleged in this complaint that is either pending or was previously filed and dismissed transferred, or otherwise disposed of after having been assigned to a judge in this court.

/s/ JERARD M. SCANLAND
JERARD M. SCANLAND
Attorney For Plaintiff

INTRODUCTION

1. The Plaintiff brings this cause of action to recover losses he suffered as a result of Defendant's failure to properly advise Plaintiff of his requirements necessary to convert his training to a full-time civilian position.

JURISDICTION

2. The Plaintiff, **CURTIS GIBSON**, is an individual who resides in the City of Detroit, County of Wayne and State of Michigan.

3. On information and belief Defendant, U.S. ARMY TANK AUTOMOTIVE & ARMAMENTS COMMAND, d.b.a.TACOM (hereinafter "TACOM") is, and at all times herein mentioned was, a limited liability company duly organized and existing under the laws of the State of Michigan. The Defendant has an office located at 6805 East 11 Mile Road, Warren, Michigan 48092.

4. Plaintiff is ignorant of the true names and capacities of the Defendants sued herein and therefore sue this Defendant by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities, inclusive, when Plaintiff ascertains the identity of such Defendants. Plaintiff is informed and believes, and thereon alleges, that each of these Defendants are responsible in some manner for the acts and omissions which damaged Plaintiff, and that Plaintiff's damages

as alleged herein were proximately caused by their actions or omissions.

5. The amount in controversy exceeds \$25,000.00.

VENUE

6. Venue is appropriate pursuant to MCL 600.1621 (a), which states in relevant part the following, "...venue is determined as follows: (a) The county in which a defendant...conducts business. The Defendant's conduct business in the County of Macomb, and thus the venue is appropriate in Macomb County.

GENERAL ALLEGATIONS

7. Curtis Gibson was hired by TACOM sometime in May of 2016 at the Troy location.

8. At that time, CURTIS GIBSON was being supervised by Anthony Olando.

9. At the time of CURTIS GIBSON's employment with TACOM, the Plaintiff was involved in an internship. He was also attending classes in an effort to earn his associates degree in general studies at Wayne County Community College.

10. CURTIS GIBSON in fact earned a degree in general studies in August of 2017.

11. After receiving his associates degree, CURTIS GIBSON, informed his then supervisor, Enid Rivera, who was the director of the Pathway's Internship Program.

12. CURTIS GIBSON placed the type of degree earned and the time it was earned in the Total Employee Development System.

13. It was at this time, CURTIS GIBSON was informed he needed to obtain a bachelor's degree in business or logistics by Ms. Rivera and Mr. Olando in order to receive a full time position.

14. CURTIS GIBSON was attempting to obtain a full time position.

15. There was no reference to any 120-day period made by Ms. Rivera and Mr. Olando to CURTIS GIBSON. In reliance on the information received by Ms. Rivera and Mr. Olando, CURTIS GIBSON began pursuing a bachelor's degree in business at Wayne State University.

16. At some point, CURTIS GIBSON's career goals changed leaving CURTIS GIBSON to decide if he desired to continue pursuing a degree in business.

17. CURTIS GIBSON advised Gary Vollmer, who advised him to contact human resources.

18. CURTIS GIBSON then spoke with Andera Valente who was TACOM's human resources director inquiring as to how he could convert his internship to a full-time position? CURTIS GIBSON advised Ms. Valente that he was informed by his then supervisor's Rivera and Olando that in order to have his

internship converted to a full-time position, he needed to obtain a bachelor's degree in either business or logistics.

19. Ms. Valente informed CURTIS GIBSON that his information was incorrect.

20. Ms. Valente further advised CURTIS GIBSON that once he obtained his degree in general studies, he needed to inform TACOM within 120 days otherwise he would not be eligible for a conversion.

21. At the time CURTIS GIBSON obtained his degree, there was an employment position available, however, there were several employment positions available.

22. CURTIS GIBSON made three (3) unsuccessful attempts to convert his internship upon learning of this 120-day rule.

23. As a direct and proximate result of the misinformation received CURTIS GIBSON suffered damages.

COUNT-I
NEGLIGENCE

24. The Plaintiff re-alleges the preceding paragraphs as if stated with the same force and effect.

25. The employer owes a fiduciary duty to its employees to provide their employees with correct information as it pertains to when one must advise their employer that a certain degree had been conferred so as to permit the employee to secure a new position within the company.

26. According to the TACOM Internship Program Participant Agreement, the supervisor was charged with the duty of informing the intern if the position offers conversion.

"If the position offers conversion to the competitive service, identify the eligibility requirements for conversion and ensure your intern is converted within the applicable timeframe (120 days from completion of all academic requirements."

27. The Defendant breached this duty by failing to properly advise the Plaintiff of the 120-day rule.

28. As a direct and proximate result of the failure of the Defendant to properly advise the Plaintiff that one must advise the Defendant that they have obtained a degree in studies within 120-days of obtaining the degree, Plaintiff was deprived of several lucrative employment opportunities.

29. As a result of Defendant's actions or lack thereof, the Plaintiff sustained damages including reliance damages. In relying on statements made by Defendant, Plaintiff attempted to obtain a degree in business from Wayne State University and was required to pay tuition. The Plaintiff also sustained a loss of income as a result.

WHEREFORE, Plaintiff, demand Judgment against Defendant in an amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars, along with costs, interest, attorney's fees.

Dated: June 16, 2022

Respectfully Submitted,

MUSSIN & SCANLAND, PLLC

/s/ JERARD M. SCANLAND

JERARD M. SCANLAND (P74992)

Attorneys for Plaintiff

13351 Reeck Court, Suite 5

Southgate, Michigan 48195

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Fax: (734)-447-5853

JScanland@milawoffices.com

**STATE OF MICHIGAN
IN THE 16th JUDICIAL CIRCUIT COURT FOR THE COUNTY OF MACOMB**

CURTIS GIBSON,
Plaintiff,

-vs.-

Case No.: 22-
Hon.

004373
-CZ

**U.S. ARMY TANK AUTOMOTIVE &
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NOV 16 2022
ANTHONY G. FORLINI
Macomb County Clerk

JURY DEMAND

COMES NOW THE Plaintiff, **CURTIS GIBSON**, through the law firm of **MUSSIN & SCANLAND, PLLC** and by his respective attorney **Jerard M. Scanland** and hereby demands a trial by jury

Dated: September 7, 2022

By: JERARD M. SCANLAND (P74992)
Attorney for Plaintiff
13351 Reeck Court, Suite 5
Southgate, Michigan 48195
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